REMARKS

Applicants respectfully traverse and request reconsideration. Claims 1 through 46 remain pending. Claims 1, 5, 21, 31, 34, 39 and 43 are hereby amended.

Summary of Office Action mailed February 11, 2008

Claims 1-10, 13-20, 31-33 and 43-46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Patricia K. Lawlis, et al., *A Formal Process For Evaluating COTS Software Products*, IEEE Computer, 2001, at 58, [hereinafter "*Lawlis*"]. Office Action, page 2(mailed Feb. 11, 2008), [hereinafter "Feb. 11 OA"].

Claims 1-4, 31-33 and 43-46 are rejected under the same rationale applied to Claims 5-10 and 13-20 for allegedly reciting similar limitations to those addressed by the rejection of Claims 5-10 and 13-20. See Feb. 11 OA, at 8.

Claims 11, 12, 21-30 and 34-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lawlis* in view of Cheryl Murphy, *An Evaluation Format For "Open" Software Tools, Computers and Human Behavior*, vol. 11, no. 3-4 , pages 619-631, 1995, [hereinafter "*Murphy*"] and further in view of Matthew Owen Howard, R. Dale Walker, Patricia Silk Walker, & Richard T. Suchinsky, *Alcohol and Drug Education in Schools of Nursing*, Journal of Alcohol and Drug Education, vol. 42, issue 3, Spring 1997, at 54, [hereinafter *Howard*]. Feb. 11 OA, at 9.

Independent claims 1, 5, 21, 31, 34, 39 and 43 have been amended to include subject matter that was already inherent in the claims, specifically that the recited "business goal rule data" corresponds to a business organization's goals with respect to employee training. In other words the business goal rules represent an organization's larger business goals and facilitate determining how an educational product, such as a training course, would fit into the

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organizations larger goals. For example, in the Applicants' specification FIG. 10, various educational products provide employee training subjects such as "Financial Basics," "Finance In Our Business" and "Billing 101." Business goal rules, which in the FIG. 10 example are formulas 1004, are applied to the educational product courses to determine how they fit in with the organization's business goals. These claim features, among others, are patentably distinguishable from the cited references as explained further below.

Rejections under 35 U.S.C. § 103(a)

Lawlis discusses a manual process for evaluation of software, specifically commercial off the shelf (COTS) Software Products to automate tasks. See Lawlis, pg. 58, col. 1, ¶ 1. The so-called "requirements driven COTS product evaluation process (RCPEP)" is a manual software evaluation process based on "user defined requirements." See Lawlis, col. 1, ¶ 2 and 3.

The software evaluation disclosed by *Lawlis* uses weighting factors and "assumes that the characteristics being evaluated are independent." See Lawlis, pg. 58, col. 2, ¶ 1. The data to which the weighting factors is applied consists of data obtained by various evaluators via questionnaires. See Lawlis, page 58 col. 2. - pg. 59, col. 1. The evaluations described by *Lawlis* are based upon required software capabilities. See Lawlis, pg. 59, col. 2. Software is evaluated as providing "full coverage," "partial coverage" or "no coverage," and weighting factors are applied to a numerical value corresponding to full coverage or partial coverage. For example, "requirements receive a 1 for full coverage, 1/2 for partial coverage, and zero for no coverage." See Lawlis, pg. 59, col. 1. After either a vendor, user or analyst determines whether a software requirement is provided for in "full coverage" or "partial coverage" the table shown in *Lawlis* FIG. 2 is created. See Lawlis, pg. 60, FIG. 2. The analyst then manually adds a column for

weights and translates the indicators into numerical values for computation. See Lawlis pg. 60, FIG. 2.

Lawlis also describes a case study wherein the RCPEP process was applied to evaluating a "COTS product supporting training evaluation [for incorporation] into [a] component based Technical Training Management System" (TTMS) for the Air Force. In accordance with the manual process, the evaluation began with a trade study wherein questionnaires were used to obtain data on whether the software products met the Air Force requirements. See Lawlis, pg 61, col. 1. In accordance with the Lawlis disclosure the "simplest form of decision analysis" was used, that is, "weighted averages." See Lawlis, pg 62, col. 2. The RCPEP process as disclosed by Lawlis "relied on user defined requirements." See id. It is important to note that this evaluation was based on the software itself, and whether the software met the *technical requirements* needed to incorporate the software into the Air Force TTMS system.

Unlike the system disclosed by Lawlis the Applicants' Claim 5 is directed to "an educational product evaluation method" wherein a feature is "storing business goal rule data," etc. Unlike Applicants' Claim 5, Lawlis is directed to a software evaluation method that uses weighting factors and evaluates the technical or functional requirements of software. Lawlis provides no discussion of business goal rules or storing business goal rule data corresponding to a business organization's goals with respect to employee training. Further, Applicants' Claim 5 requires the feature of "generating a plurality of educational product alignment values . . . based on . . . the stored business goal rule data." Applicants' Claim 5 further requires the feature of "generating an educational product summary containing at least the overall business alignment value for each of the plurality of educational products." Lawlis on pg. 60, in FIG. 2, shows a chart of *software requirements* and evaluations *determined by vendors, users or analysts* which

are arguably subjective indications of whether software *technical requirements* are met and which are not determined by business goal rule data.

These indications are further assigned a weighting value as shown in *Lawlis* FIG. 2. However *Lawlis* in FIG. 2 does not show or describe any business goal rule data being applied to the determinations made with respect to FIG. 2 or with respect to the FIG. 2 data. Therefore although the Office Action suggests that the RCPEP process "is a stored evaluation technique for evaluation of COTS software products," this is not germane to Applicants' Claim 5 because Applicants' Claim 5 requires storing business goal rule data and is related to educational products. See Feb. 11 OA, pg. 3.

Therefore although the Office Action argues that "values for plurality of products are generated, based on a plurality of categories and the rules for applying those categories to the product," no rules are shown, only analyst assignments (i.e. fully supported = 1 and partially supported = ½) and weightings. See Feb. 11 OA, pg. 3.

Further although the Office Action argues that "the sum total of each of the plurality of scores (i.e. an overall value) based on the single values" is shown by *Lawlis* on pg. 60 in FIG. 2, this total is not based on business goal rule data as required by Applicants' Claim 5. While the Office Action argues that "the product summary scores for products A, B thru Z (bottom of table) is generated for each product," these summary scores are based only on the weighting factors and not on business goal rules. See Feb. 11 OA, pg. 3. Again these product summary scores are not related to educational products, but are related to whether the *technical requirements* of software are met.

Because *Lawlis* does not disclose storing business goal rule data or generating anything based on business goal rule data, *Lawlis* cannot be viewed as describing "generating an

educational product summary containing at least the overall business alignment value for each of the plurality of educational products." Therefore *Lawlis* is insufficient as a reference under 103(a) because *Lawlis* does not disclose the features required by Applicants' Claim 5.

The dependent claims 6-19, which depend from, and include all limitations of, independent Claim 5 add additional novel and non-obvious subject matter. For example Claim 6 requires the feature "wherein storing the business goal rule data includes storing data representing rules defined for a plurality of desired business goals wherein the business goal rule data represents at least one of: a strategic importance level, a cost effectiveness level and an educational product impact level." The Office Action argues that the teachings of FIG. 2 of *Lawlis* concerning "[r]uns on appropriate platform" reads on the claimed strategic importance level. See Feb. 11 OA, pg. 4.

However, as discussed above the business goal rule data corresponds to a business organization's goals with respect to employee training and thus the strategic importance level recited in claim 6 likewise corresponds to a business organization's goals with respect to employee training. The teachings of *Lawlis* concerning "[r]uns on appropriate platform" are related to the *technical requirements* of software. Therefore claim 6 is patentably distinguishable from the teachings of *Lawlis*.

Even assuming for the sake of argument that "runs on appropriate platform" is a strategic importance level as asserted by Office Action, this would still be inadequate to reject Applicants' Claim 6 because *Lawlis* does not disclose storing data representing rules defined for a plurality of desired business goals. Regarding software user requirements such as running on an appropriate platform; according to *Lawlis* such information would be gathered using questionnaires where the evaluators would answer based on whether the requirement is fully

supported, partially supported or not supported, in other words, whether the *technical requirements* are met. See Lawlis, pg. 59, col. 1; FIG. 1(a) and (b). A software vendor answers the questionnaire regarding product requirements, that is, the vendor responds regarding whether the software meets the intended buyer's *technical requirements*. See id. In contrast, claim 6 is directed to business goal rule data corresponding to a business organization's goals with respect to employee training, and representing, among other things, a strategic importance level. Therefore claim 6 is in condition for allowance as are the other dependent claims that depend from independent claim 5.

Reconsideration and withdrawal of the 35 U.S.C. § 103 rejection of Claim 5 is respectfully requested in light of the above. Additionally Claim 6 - 10, 13, and 14 - 20 are dependent claims that depend from and include all limitations of independent Claim 5. Therefore these Claims are likewise allowable in light of the discussion above with respect to Claim 5. Reconsideration and withdrawal of the rejection of these Claims 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19 and 20 is respectfully requested.

Claims 1-4, 31-33 and 43-46 were rejected as reciting "similar limitations to those addressed by the rejection of Claims 5-10 and 13-20." See Feb. 11 OA, pg. 8. However, Applicants respectfully submit that this statement avoids addressing the specific claim language recited in the claims and is therefore an improper rejection.

For example independent Claim 1 as amended requires "storing business goal rule data, the business goal rule data corresponding to a business organization's goals with respect to employee training; and analyzing the educational product based on the stored business goal rule data." *Lawlis* has no disclosure of stored business goal rule data and likewise no disclosure of analyzing an educational product based on such rule data. Therefore reconsideration and

withdrawal of the 103 rejection of Claim 1 and its dependent Claims 2-4 is respectfully requested.

Claim 31 recites *inter alia* "An educational product evaluation apparatus comprising: at least one processing device; and memory containing executable instructions that when executed by the at least one processing device, causes the at least one processing device to: store business goal rule data," etc. The blanket rejection of claim 31 based on "similar limitations" clearly does not address the claim language. *Lawlis* is not only insufficient for disclosing a system running on a computer and coded in software but is also inadequate as it does not disclose the specific features recited by Applicants' claims.

Although the specific language of claim 31 has not been properly addressed in the Office Action, Applicants note that *Lawlis* discloses a manual system and therefore the teachings of *Lawlis* cannot be viewed as disclosing an "educational product evaluation apparatus." Also, as admitted by the Office Action, "*Lawlis* does not explicitly teach the method being performed on a computer apparatus with memory and various generators as claimed." See Feb. 11 OA, pg 8.

Regarding Claim 43 the various generators disclosed have operative coupling there-between and therefore describe a structure regardless of whether this structure is implemented in software or hardware elements as described in Applicants' specification. Therefore with respect to the official notice that "it is old and well-known to perform methods steps, such as taught by *Lawlis* using a computer," the Applicants respectfully request that a reference be provided showing the specific structure claimed by Applicant such as in Applicants' Claim 43.

That the method of evaluating software technical requirements taught by *Lawlis* might be performed using a computer as argued in the Office Action is conclusory at best and does not serve as evidence that the structure recited in claim 43 for the purpose of evaluating education

products would have been obvious to one of ordinary skill. Applicants' respectfully submit that claim 43 is in condition for allowance.

Further, as discussed in detail above with respect to claim 5, *Lawlis* does not disclose storing business goal rule data or evaluating educational products. Therefore, *Lawlis* is insufficient under 35 U.S.C. § 103 to reject independent Claim 31, 34 and 43, based solely on the discussion provided above with respect to claim 5, specifically, that *Lawlis* does not describe or suggest storing business goal rule data corresponding to a business organization's goals with respect to employee training. Reconsideration and withdrawal of the rejection of claims 31, 34 and 43 is therefore respectfully requested.

Claims 11, 12, 21-30 and 34-42, (OA page 9, ¶4)

Claim 11 and 12 are dependent claims that depend from, and include all limitations of, independent Claim 5. Because *Lawlis* does not teach the features of Claim 5, Claims 11 and 12 are likewise allowable in view of the deficiency.

Addressing the discussion provided in the Office Action, Claim 11 recites that a strategic importance alignment value is based on a strategic importance priority level data of an educational content area and on at least course hours for the educational products associated with the educational content area; the cost effectiveness alignment value is based on at least a number of hours per educational product and a cost of the educational product.

The Office Action admits that *Lawlis* does not teach this feature. See Feb. 11 OA, pg 10. This is to be expected because *Lawlis* does not teach evaluation of educational products and thus there is no reason for *Lawlis* to teach anything related to educational products such as course hours, etc. The Office Action relies on *Murphy* as teaching cost effectiveness, but admits that

neither *Lawlis* or *Murphy* teach using course hours associated with the educational content and the number of hours per educational product as a rating input. See Feb. 11 OA, pg 10.

This is because *Murphy*, like *Lawlis*, is related to evaluation of software and not an educational product's fit with a business organization's goals with respect to employee training. For example, Murphy discusses rating software based on whether it has on-line help, secret commands that are not intuitive thereby hindering ease of use, and translation between platforms. See Murphy, "SOFTWARE RATINGS," pg. 625. Software is rated as being "good," "very good" or "excellent," and evaluates primarily software *technical requirements* such as documentation, learner control, branching, portability and ease of use. See Murphy, "SOFTWARE RATINGS," pg. 625; Table 1 & 2. Again, like the teaching of *Lawlis*, *Murphy* teaches rating software, notwithstanding that the software may be computer technology adopted by higher educations. See Murphy, pg. 619. *Murphy* adds nothing to overcome the deficiencies of the teachings of *Lawlis* with respect to the instant claims.

The Office Action relies on *Howard* as teaching using course hours associated with educational content as a way to measure the importance of the course in a student's overall curriculum. See Feb. 11 OA, pg. 11. The Office Action states that the "use of hours to measure the importance of an instructional course provides a predictable result because it is used in comparison to the total number of hours of instruction." See Feb. 11 OA, pg. 11.

However this "predictable result" related to "the total number of hours of instruction" is not the feature recited by the claim wherein course hours may be only a factor of an educational product evaluation based on business goal rule data. Therefore *Howard* does not add anything to the teachings of *Lawlis* and *Murphy*, and combining all three references does not provide the features claimed, for example, the feature of storing business goal rule data, the business goal

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rule data corresponding to a business organization's goals with respect to employee training, or the features specific to claim 11, "wherein the strategic importance alignment value is based on a strategic importance priority level data of an educational content area and on at least course hours," etc.

Claims 21-30 and 34-42, have been rejected under a blanket rejection stating that the claims "recite similar limitations to those addressed by *Lawlis* above, and are therefore rejected under the same rationale." See Feb. 11 OA, pg. 12. This rejection, like the blanket rejection applied to claims 1-4, 31-33 and 43-46, avoids addressing the specific language recited by claims 21-30 and 34-42 and is therefore improper.

However independent claims 21 and 34 both include the feature of storing business goal rule data, the business goal rule data corresponding to a business organization's goals with respect to employee training, and, as discussed above, *Lawlis* does not teach this. Thus claims 21-30 and 34-42 are in condition for allowance for this reason alone. Additionally, *Lawlis* does not disclose other claimed features which were not addressed by the blanket rejection. For example, *Lawlis* does not disclose anything related to evaluation of educational products such as "educational product alignment values" as recited by claim 21.

Regarding the official notice that "it is old and well-known to perform method steps, such as taught by *Lawlis* using a computer and software," the Applicants respectfully request that a reference be provided illustrating the structure recited by, for example, Applicants' Claim 34 and the steps required to obtain the results in accordance with Applicants' Claim 34.

Claims 21-30 and 34-42 are thus in condition for allowance and reconsideration and withdrawal of the 35 U.S.C. § 103 rejection is respectfully requested.

CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,

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